

AUG 14 2007

NEBRASKA DEPARTMENT  
OF INSURANCE

CAUSE NO. C-1635

## JURISDICTION

- ## STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Washington National Insurance Company, Cause Number C-1635 on May 9, 2007. A copy of the petition was served upon the Respondent, at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. The petition alleges that Respondent violated Neb. Rev. Stat. §§44-1524, 44-1525(11), 44-1539, 44-1540(2), 44-1540(3), 44-1540(7) and 210 Ch. 61 §§006.01, 008.02, 008.03 as a result of the following conduct:

- a. On July 7, 2006, a complaint was received by the Nebraska Department of Insurance regarding communication difficulties between the complainant and Respondent.
- b. On July 14, 2006, Scott Zager (Zager), and Insurance Investigator with the Nebraska Department of Insurance, wrote Respondent requesting information with regard to the complaint. Respondent failed to respond within fifteen working days to Zager's letter.
- c. On August 9, 2006, another letter was sent from Zager to Respondent, once again, requesting the information sought in the July 14, 2006 letter. Respondent called Zager and said that they did not have a record of the July 14, 2006 letter. Respondent requested that Zager fax the letter to Respondent, which he did at 1:48 p.m. on August 14, 2006. Additionally, another copy of the letter(s) was sent via the U.S. Postal Service.
- d. Respondent sent, on September 11, 2006 a response to Zager regarding the previous correspondence. The response letter attached to the fax cover denoted a date of "August 30, 2006." The fax cover stated that a response was sent "August 31, 2006." Zager did not receive any response on those dates, as denoted by Respondent's correspondence until the September 11, 2006 fax. Respondent failed to respond in timely fashion to the August 9, 2006 letter and to the August 14, 2006 fax.
- e. The response received by the Department of Insurance on or about September 11, 2006, failed to answer or provide documents to questions raised in the initial letter of July 14, 2006. This constitutes a failure to respond by Respondent.
- f. A fourth letter was sent to Respondent on September 11, 2006 requesting the previously sought information. Finally, after numerous attempts by the Department of Insurance, Respondent provided the requested information on September 25, 2006.
- g. Once the information was received by the Department of Insurance, Zager reviewed the relevant documents and had further questions for Respondent in a December 15, 2006 letter. In that letter, various and specific questions were asked that were not answered by Respondent in their January 3, 2007 response letter, thus constituting another failure to respond.
- h. The documents revealed that Respondent failed, pursuant to Title 210 NAC Ch. 61 §008.02, to provide the Complainant a reasonable written explanation

of the delay since Respondent failed to follow up with complainant with regard to outstanding matters. The records revealed that Respondent received an itemized claim from Complainant on April 19, 2005. The claim included the physician's authorization to release medical records. Respondent determined that additional information was necessary from the physician. That particular information was provided on August 18, 2005. Respondent additionally violated Neb. Rev. Stat. §§44-1540(2) and Title 210 NAC Ch. 61 §006.01 by not acknowledging its receipt of that information.

- i. Complainant called Respondent on December 2, 2005 inquiring about the status of the claim. Respondent asserted that they had not received the additional information as requested. On January 20, 2006, Complainant coordinated with the provider to fax all requested records directly to Respondent. Respondent logged its receipt on the same day. On January 26, 2006, Respondent once again wrote complainant that additional information was needed. Complainant contacted Respondent as to what additional information was needed on January 30, 2006. Respondent tried to contact complainant once but failed to follow up with any further communication in violation of Neb. Rev. Stat. §§44-1540(2), 44-1540(3), Title 210 NAC Ch. 61 §§006.01 and 008.02.
- j. On March 4, 2006, Complainant contacted Respondent by resubmitting the information to Respondent via certified mail. The certified receipt was signed and returned. Respondent also mailed a letter dated March 8, 2006, acknowledging receipt of the correspondence. However, no further action was taken on the claim since Respondent was unable to locate a copy of this submission in its files. This violates Neb. Rev. Stat. §§44-1540(2), 44-1540(3), 44-1540(4), 44-1540(7), Title 210 NAC Ch. 61 §§006.01 and 008.02.
- k. The claim was paid on September 11, 2006, which is after the complaint was filed with the Nebraska Department of Insurance. The information employed by Respondent to determine liability was the information provided by the previous claim submissions dated April 19, 2005, and August 18, 2005. The failure of Respondent to timely pay this claim is in violation of Neb. Rev. Stat. §§44-1540(2), 44-1540(3), 44-1540(4) and Title 210 NAC Ch. 61 §008.03.
- l. In response to the aforementioned issues, Respondent admitted in their letter of January 3, 2007 that "It is apparent that his claim was not entirely handled according to current guidelines. However, be advised that it has been brought to the attention of claims management..."

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and

acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits that it violated Neb. Rev. Stat. §§44-1524, 44-1525(11), 44-1539, 44-1540(2), 44-1540(3), 44-1540(7) and 210 Ch. 61 §§006.01, 008.02, 008.03.

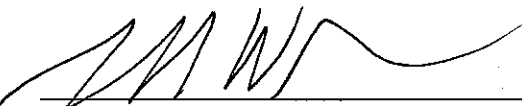
#### CONCLUSIONS OF LAW

The conduct of Respondent, as alleged above, constitutes violations of Neb. Rev. Stat. §§44-1524, 44-1525(11), 44-1539, 44-1540(2), 44-1540(3), 44-1540(7) and 210 Ch. 61 §§006.01, 008.02, 008.03.

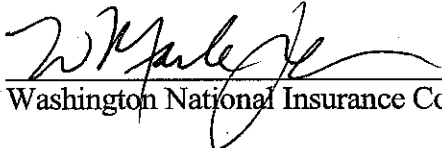
#### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, that Respondent shall pay an administrative fine in the amount of ten thousand dollars (\$10,000). The Respondent has thirty days from the date of approval of this consent order by the Nebraska Director of Insurance to pay the ten thousand dollar fine. Respondent also agrees to address its claims review process in order to rectify the issues that arose from the substance of the petition filed in this matter and will attest to said review. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing their signatures below.

  
Martin W. Swanson, #20795  
Department of Insurance  
941 "O" Street, Suite 400  
Lincoln, Nebraska 68508  
(402) 471-2201

Aug 8/10/07  
Date

  
Washington National Insurance Company  
8-9-07  
Date

State of Indiana )  
County of Marion ) ss.

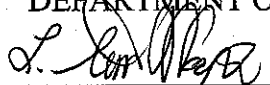
On this 9th day of August, 2007, Washington National Insurance Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.

RENEE WAKE  
Notary Public, State of Indiana  
County of Marion  
My Commission Expires Sep. 02, 2008

Notary Public

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Washington National Insurance Company, Cause No. C-1635.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
Director of Insurance

8/14/07  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at 11815 N Pennsylvania Street, P.O. Box 1911, Carmel, IN 46032, by certified mail, return receipt requested on this 14<sup>th</sup> day of August, 2007.

Tracy A. Stuhm